

**CITY OF HAYWARD**

**and**

**SEIU Local 1021 (Maintenance, Clerical and Confidential);**

**Hayward Association of Management Employees (HAME); and**

**International Federation of Professional & Technical Engineers, Local 21**

**SIDE LETTER OF AGREEMENT**

**RE: Mandatory Furlough for Affected Bargaining Units to Address  
Projected City Revenue Shortfall for FY 2009-10**

The parties have met and discussed the projected revenue shortfall facing the City of Hayward for FY 2008-09 and FY 2009-10. The parties have agreed to institute a furlough program in order to aid the City's ability to maintain routine and necessary services. These measures will partially mitigate the City's revenue shortfall. This Sideletter is executed to set out the agreements reached between the parties to address the major issues expected to arise during the furlough. This Sideletter shall therefore expire at the close of business on June 30, 2010 at the end of the 2009-10 fiscal year and prescribed furlough period. The terms and conditions of the furlough program and cost savings measures are outlined below:

**Definitions**

1. *Furlough Obligation* - The total number of furlough hours an employee is required to take between 7/1/2009 and 6/30/2010.
2. *Furlough Hours Taken* - The hours that the employee takes off from work to meet his/her Furlough Obligation.
3. *Furlough Payback* - The reimbursement of paid Furlough Hours Taken that will be spread over 26 pay periods in FY 2009-10.

**Covered Employees**

All full-time and benefited part-time employees in the bargaining units will be required to participate in the Furlough Program:

## **Furlough Obligation**

1. All full-time employees will have a furlough obligation of 104 hours for FY 2009-10.
2. All benefited part-time employees, working 20 hours or more per week, will be required to take a pro-rated number of furlough hours. For example, if an employee works 20 hours then his/her furlough obligation would be 50% or 52 furlough hours. If an employee's schedule varies, the furlough obligation will be determined by the average number of hours worked in the 10 payrolls prior to approval of this agreement.
3. Employees working 19 hours per week or less and temporary employees will be exempt from participating in the Furlough Program. Affected employees will not be scheduled to work on furlough days and there will be no subsequent deductions from their paychecks.
4. Any new employee, or employee returning from an unpaid status, will have a furlough obligation based on the number of payrolls remaining in the furlough payback period.
5. Any employee paid under Workers' Compensation will not be expected to participate in the Furlough Program until he/she has returned to work. At that time, a determination will be made to calculate his/her furlough obligation based on the number of pay periods remaining in the furlough payback period.

## **Furlough Days**

1. The City Manager shall meet with the affected bargaining units to determine how the furlough hours will be taken, which may be a combination of floating furlough days or set dates for closure of non-essential City facilities.
  - a. If floating furlough days are agreed upon, an employee will be allowed to meet his/her furlough obligation through days off of his/her choosing, provided the requests for days off are approved in advance by his/her supervisor. While supervisors have discretion to approve or deny floating furlough requests, they are encouraged to approve the use of such requests unless operational necessity precludes approval. A request for furlough hours shall be given the same approval consideration as a request for vacation hours. In the event of a dispute regarding the approval of furlough hours, the supervisor shall forward the reason for denial to the City Manager for review and whose decision shall be final.
  - b. If non-essential City facilities are closed, the City will establish a schedule for employees assigned to those facilities to take furlough days, unless otherwise determined by the City Manager.
  - c. Unless the City Manager determines otherwise, the following schedule of 13 (8-hour) furlough days will be applicable:

2009: July 31	8 hours	
August 28	8 hours	
September 25	8 hours	
October 30	8 hours	
November 25	8 hours	(Wednesday)

December 21	8 hours	(Monday)
December 22	8 hours	(Tuesday)
December 23	8 hours	(Wednesday)
2010: January 29	8 hours	
February 26	8 hours	
March 26	8 hours	
April 30	8 hours	
May 28	8 hours	

- i. The City Manager will determine which employees will be required to provide essential services during furlough days when the City is closed.
  - ii. Employees who are not required to provide essential services during furlough days will be required to take their furlough days on the designated furlough days.
  - iii. Employees who are required to work on a furlough day will be required to make up their furlough hours between August 1, 2009 and June 30, 2010.
2. An employee must submit his/her request for the use of floating furlough days no later than May, 1, 2010. Absent such a timely request, the employee's supervisor can unilaterally schedule the furlough hours to be taken by the employee.
3. The parties acknowledge that the furlough is a concession voluntarily made by the employees of the affected bargaining units.
4. Furlough hours shall not be taken in increments of less than 8 hours or one-shift, and may be combined with an employee's time off for holiday, vacation, comp time or AWS purposes, if applicable.
5. All furlough hours must be taken prior to using any vacation, administrative leave or compensatory time off, if applicable.
6. An employee's use of furlough time shall not adversely impact the employee. (For example, an employee's use of approved furlough time off shall not adversely impact the employee's performance evaluation.)

### **Furlough Payback**

1. In order to mitigate the financial impact of the Furlough Program to employees, the payback of the furlough obligation will be spread over 26 payrolls for FY 2009-10.
2. For FY 2009-10, 4 hours of paid time will be deducted from each full-time employee's paycheck with the payroll period beginning July 11, 2009 which is paid July 24, 2009, and ending with the payroll period beginning June 21, 2010 which is paid July 9, 2010. Assuming an employee works 80 hours, they will be paid for 76 hours for each of the 26 payrolls.
3. If applicable, the furlough hours taken will not negatively impact the calculation of overtime pay for emergency-call out, call-back or standby obligations. Overtime shall continue to be calculated in accordance with applicable MOU language and FLSA provisions.

4. Any employee who leaves City employment prior to completely reimbursing the City for the furlough hours taken will have any remaining prorated balance of owed furlough payback hours deducted from his/her final paycheck.

### **Furlough Impacts**

1. Implementation of the Furlough Program will not cause any decrease in vacation or sick leave accruals.
2. The caps on vacation will not be enforced through calendar year 2011.
3. If applicable, enforcement of compensatory time off (CTO) caps can be extended from March 29, 2009 to December 31, 2010, up to the FLSA limits. Employee requests to carry over CTO balances in excess of the one-hundred twenty (120) and eighty (80) hour maximums provided for in their MOUs will be approved. Employees must submit such requests to their department heads no later than July 6, 2009, and the department heads shall forward the approved requests to the City payroll office no later than July 10, 2009. In the event an employee extends his/her CTO cap enforcement to December 31, 2010, any CTO hours in excess of 80 hours will be cashed out and paid to the employee in the pay period ending January 2, 2011.
4. For employees retiring prior to July 1, 2010, if FY 2009-10 months are included in the highest earnings months, retirement calculation of the single highest year salary would not be affected. PERS calculations are based on the reported salary rate not actual wages earned. Also, unless employees are on leave of absence without pay status for more than 2 months during the 12 months prior to retirement, PERS service credit would not be affected.

### **Layoff Procedure**

The City agrees not to layoff employees in the affected bargaining units unless a lack of work or a lack of funds requires such layoffs and only after the City meets and confers with affected bargaining units over the impact of such layoffs.

In the event of layoffs, the City shall follow the layoff procedure as set forth in the MOUs.

The City shall provide financial and employment counseling to employees laid off.

### **Dispute Resolution**

This Side Letter shall not be subject to the dispute resolution procedure contained in the Bargaining Unit's Memorandum of Understanding, to procedures contained in the City's Personnel Rules or to the jurisdiction of the City's Personnel Board for any reason whatsoever.

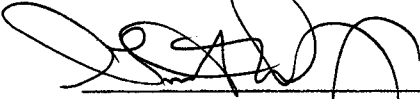
**For Local 21**

\_\_\_\_\_  
Jodi Pascual, President

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Pam Covington, Representative


DATED \_\_\_\_\_

**For SEIU 1021**

  
\_\_\_\_\_  
Maintenance Unit-Gil Hesla

  
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"Clerical Unit-Duane O'Bayley

  
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Confidential Unit-Linda Mitchell

  
\_\_\_\_\_  
Iris leBlanc Clay, Representative

DATED 5/15/09

**For the City of Hayward**

  
\_\_\_\_\_  
Gregory T. Jones, City Manager

DATED 5/19/09

**For HAME**

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Richard Patenaude, President

\_\_\_\_\_  
David Clisham, Legal Counsel

DATED \_\_\_\_\_